

MATTHEWS SCIENTIFIC CORPORATION

IBLA 82-620

Decided October 18, 1983

Appeal from a decision of the Oregon State Office, Bureau of Land Management, declaring quartz millsite invalid OR MC 3408 (Wash).

Affirmed.

1. Millsites: Generally

Where it is confirmed that a locator of a millsite claim had filed a formal abandonment of the millsite claim with the local county recorder's office, the original millsite location no longer is a valid millsite requiring annual filings of a notice of intention to hold the site under FLPMA, and BLM properly declared the claim invalid.

APPEARANCES: W. R. Matthews, president of Matthews Scientific Corporation, for appellant.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Matthews Scientific Corporation has appealed from a decision of the Oregon State Office, Bureau of Land Management (BLM), which declared the Feldslite Quartz Millsite location OR MC 3408 (Wash) invalid because the claim had been abandoned January 19, 1978.

[1] The record shows that the Feldslite Quartz Millsite location OR MC 3408 (Wash) situated in the NW 1/4 sec. 7, T. 26 N., R. 17 E., Willamette meridian, Washington, was originally located in October of 1977, and recorded November 2, 1977, in book 748, pages 1236-37, document 779401, records of Chelan County, Washington. The claim was then recorded with BLM November 8, 1977. BLM first declared this millsite abandoned and void in April 1979 for failure to file a 1978 annual assessment statement or notice of intention to hold the site. This Board considered an appeal of this action in Feldslite Corporation of America, 56 IBLA 78 (1981), where we reversed and remanded the case to the BLM with directions to give the appellant the opportunity to cure the deficiency as to the notices of intention to hold the millsite for the years 1978 through 1980. By letter of December 11,

1981, BLM requested the notices required by 43 CFR 3833.2-3(b) and also took note of appellant's formal abandonment of the site in 1978 stating:

We have in our records a copy of a "Notice of Abandonment of Millsite Location." It concerns the quartz millsite location recorded with the Chelan County Auditor's Office on November 2, 1977, in Document No. 779401. Document No. 779401 is the Location Notice of the Quartz Millsite Location in OR MC 3408 (Wash) located October 19 or 22, 1977, and recorded November 2, 1977, in Book 748, Page 1236, records of Chelan County, Wash. The Claim was located by W. R. Matthews, acting for Matthews Scientific Corporation. The abandonment was by Matthews Scientific Corporation and was signed by William (?) R. Matthews, President, and was dated January 19, 1978. It was recorded on Document #782543 in Book 750, Page 1829, Records of Chelan County, Wash. Therefore, in addition to the fact that notices of intention to hold the site were not filed in this office, the mill site was formally abandoned by the locator. The relationship of Matthews Scientific Corporation to Feldslite Corporation of America is not known.

By letter of December 19, 1981, Matthews submitted notices of intention to hold the millsite for years 1978-81 and stated that the Matthews Scientific Foundation was the locator and the owner of the Feldslite Quartz Millsite along with other various mining claims and millsites. ^{1/} Matthews pointed out that the Feldslite Corporation was only the operating company and "is not concerned with reporting the intentions to hold." He further confirmed that the millsite had been abandoned in 1978 as indicated by BLM. He explained that it was done at the direction of the Chelan County Planning Director in order that he could obtain a conditional use permit for other claims in the area. BLM subsequently declared the millsite invalid.

On appeal, appellant again admits the millsite was abandoned, but alleges it was abandoned under the duress of the Forest Service and the Chelan County Planning Director who told him he "could not have two sites."

From our current review of the record it is clear that the Feldslite Quartz Millsite OR MC 3408 (Wash) was formally abandoned by the original

^{1/} It appears that the land embraced in the instant millsite was subsequently relocated by appellant on two separate occasions. The first relocation notice was rejected for recordation on Dec. 6, 1979, because it was not filed with BLM within 90 days of the location date as required by sec. 314(b) of FLPMA, 43 U.S.C. § 1744(b) (1976). Appellant located yet another millsite claim on this land on Dec. 18, 1979, which was duly filed with BLM on Dec. 30, 1979, where it received serial number OR MC 31181. Various notices of intent to hold have since been filed for this claim.

locator of the site, the Matthews Scientific Corporation, as of January 19, 1978. Even had appellant received erroneous advice, this abandonment was, nevertheless, the product of his own volition and would not constitute legally cognizable duress. Appellant's subsequent filings pursuant to Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), with BLM were ineffective to revive the original location. The consideration of these filings is a moot question in view of the abandonment of the millsite.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

